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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,452	06/24/2003	Louis F. Filipescu	003-12	3268

7590 04/23/2004

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EXAMINER
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REIS, TRAVIS M

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/603,452

Applicant(s)

FILIPESCU, LOUIS F.

Examiner

Travis M Reis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20030811</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 7-10, 12, 13, 15, & 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Krake et al. (U.S. Patent App. Pub. 2002/0078582 A1).

Krake et al. discloses a level comprising a housing having an interconnected front (9), back (1), top, & bottom walls defining an internal chamber (Figure 1); a first bubble level (6) and second bubble level (7) each containing a liquid carried by said housing (Figure 1); three elongated stamping members (2) for movement between a first retracted position (Figure 1) wherein at least a portion of said stamping member (3) is disposed within said internal chamber (Figure 3) and a second position wherein at least a portion of said stamping member extends outwardly from said front wall of said housing; operating means carried by said housing for moving said elongated stamping member from said first retracted position to said second position, said operating means comprising a plurality of biasing push bars (4) carried within said internal chamber for movement between a first position and a second position, said first push bar being in engagement with said stamping member; a plurality of push pads (10) carried by said housing and operably associated with said first push bar, said push pads being movable between a first, at rest position, and a second, operating position wherein said first push bar is moved toward said second position and a plurality of guide means (5) carried within said internal chamber of said housing for guiding movement of said

push bars between said first and second positions (page 1, para. 4).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krake et al. in view of Hiltz (U.S. Patent 4506451).

Krake et al. disclose all of the instant claimed invention as stated above in the rejection of claims 1-5, 7-10, 12, 13, 15, & 16 but do not disclose a third bubble tube containing a liquid material carried by said housing.

Hiltz discloses a third bubble level (48) containing a liquid material carried by said housing to further facilitate the location and position of the lines to be marked on the work piece (Figure 1) (col. 2 lines 45-50). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the third bubble level disclosed by Hiltz to the levels disclosed by Krake et al. in order to further facilitate the location and position of the lines to be marked on the wall.

5. Claims 11, 14, 17, & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krake et al. in view of Sauerbier (U.S. Patent 856915).

Krake et al. disclose all of the instant claimed invention as stated above in the rejection of claims 1-5, 7-10, 12, 13, 15, & 16 but do not disclose a plurality of guide rods mounted within said internal chamber of said housing.

Sauerbier discloses a hand stamp with a plurality of guide rods (5) mounted with nuts (5a) within a housing (1,2) to adjust the level of impression the stamp makes (Figure 1) (page



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1, lines 80-84). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the guide rods and nuts disclosed by Sauerbier to the guide means disclosed by Krake et al. in order to adjust the level of impression of the marks.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krake et al. & Sauerbier as applied to claims 11, 14, 17, & 18 above, and further in view of Hiltz.

Krake et al. & Sauerbier disclose all of the instant claimed invention as stated above in the rejection of claims 11, 14, 17, & 18 but do not disclose a third bubble tube containing a liquid material carried by said housing.

Hiltz discloses a third bubble level (48) containing a liquid material carried by said housing to further facilitate the location and position of the lines to be marked on the work piece (Figure 1) (col. 2 lines 45-50). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the third bubble level disclosed by Hiltz to the levels disclosed by Krake et al. & Sauerbier in order to further facilitate the location and position of the lines to be marked on the wall.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gail discloses a punch (U.S. Patent 1505775). Vasile discloses a square level measuring tool (U.S. Patent 4700489). Hoenig discloses a locating and leveling tool (U.S. Patent 5092057). Ostrowski discloses a drapery installation tool (U.S. Patent 5179787). Von Wedemeyer discloses a level indicator (U.S. Patent 5479717). Miodragovic discloses an alignment device (U.S. Patent 6029362). Miller discloses a device for locating attachment points (U.S. Patent 6421928). Newman discloses leveling and marking tools (U.S. Patent App Pub 20020095812 & 20040049936).

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M Reis whose telephone number is (571) 272-2249.

The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Travis M Reis  
Examiner  
Art Unit 2859



Diego Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800

tmr  
April 16, 2004

**CHRISTOPHER W. FULTON**  
**PRIMARY EXAMINER**